

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COMMISSIONER OF COMMERCE

In the Matter of Patricia F. Anderson

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

This matter came on for a Hearing before Administrative Law Judge Steve M. Mihalchick at 1:00 p.m. on March 2, 2006, at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota. At the hearing, Respondent Patricia F. Anderson stipulated to the facts set forth in the Notice of and Order for Hearing, Order to Show Cause, Order for Summary Suspension, and Statement of Charges dated July 28, 2005. As a result, the Department of Commerce requested that the ALJ enter a Recommendation to the Commissioner that disciplinary action be taken against Respondent's insurance producer license.

Michael J. Tostengard, Assistant Attorney General, 1200 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, appeared for the Department of Commerce ("Department"). John B. Wolfe, Jr., Attorney at Law, 406 Spruce Tree Center, 1600 University Avenue, St. Paul, MN 55104, appeared for Patricia F. Anderson ("Respondent").

NOTICE

This report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendation. Under Minn. Stat. § 14.61, the Commissioner shall not make a final decision until this Report has been made available to the parties for at least ten days. The parties may file exceptions to this Report and the Commissioner must consider the exceptions in making a final decision. Parties should contact Kevin Murphy, Deputy Commissioner, Department of Commerce, 85 Seventh Place East, Suite 500, St. Paul, MN 55101, to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the

expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Pursuant to Minn. Stat. § 14.62, subd. 1, the Commissioner is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

STATEMENT OF ISSUES

1. Did Respondent demonstrate untrustworthiness and financial irresponsibility in violation of Minn. Stat. § 60K.43, subd. 1(8) (2004), by converting client monies to her own use?

2. Did Respondent engage in fraudulent and dishonest practices in violation of Minn. Stat. § 60K.43, subd. 1(8) (2004), by converting client monies to her own use?

3. Did Respondent improperly withhold or misappropriate or convert monies taken from her customers in violation of Minn. Stat. §§ 60K.43, subd. 1(4) and 72A.20, subd. 18 (2004)?

4. Did Respondent fail to observe high standards of commercial honor in the conduct of her insurance business in violation of Minn. R. 2795.1000 (2003)?

5. Did Respondent violate her fiduciary duties by improperly withholding and converting funds in violation of Minn. Stat. § 2795.1300 (2003)?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. Respondent is currently licensed as an insurance producer by the Department, license no. 20266498.

2. At the hearing, Respondent stipulated to the allegations contained in the Notice of and Order for Hearing, Order to Show Cause, Order for Summary Suspension, and Statement of Charges, and these allegations are hereby taken as true and incorporated into these Findings of Fact.

3. Discipline of Respondent is in the public interest.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Department of Commerce and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50 and 60K.43, subd. 2.

2. The Department has given proper notice of the hearing in this matter and has fulfilled all relevant procedural requirements of law and rule.

3. The allegations contained in the Notice of and Order for Hearing, Order to Show Cause, Order for Summary Suspension, and Statement of Charges are taken as true.

4. Pursuant to Minn. Stat. § 60K.43, subd. 1(8), the Commissioner may, by order, restrict, censure, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty under Minn. Stat. § 45.027 or any combination of actions, for using fraudulent or dishonest practices, or demonstrating untrustworthiness or financial irresponsibility, whether or not involving the business of insurance.

5. Pursuant to Minn. Stat. § 60K.43, subd. 1(4), the Commissioner may, by order, restrict, censure, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty under Minn. Stat. § 45.027 or any combination of actions, for withholding, misappropriating, or converting any money received in the course of doing insurance business.

6. Improperly withholding, misappropriating, or converting any money belonging to a policyholder, beneficiary, or other person when received in the course of the insurance business; or engaging in fraudulent, coercive, or dishonest practices in connection with the insurance business, shall constitute an unfair method of competition and an unfair and deceptive act or practice under Minn. Stat. § 72A.20, subd. 18.

7. Minn. R. 2795.1000 requires insurance producers to observe high standards of commercial honor in the conduct of their insurance business.

8. Minn. R. 2795.1300 requires insurance producers to uphold their fiduciary duties in the conduct of their insurance business.

9. Respondent violated Minn. Stat. § 60K.43, subd. 1(8), by using fraudulent and dishonest practices, and demonstrating untrustworthiness and financial irresponsibility.

10. Respondent violated Minn. Stat. § 60K.43, subd. 1(4), and engaged in a deceptive act or practice under Minn. Stat. § 72A.20, subd. 18, by converting client insurance monies to her own use.

11. Respondent failed to observe high standards of commercial honor and uphold her fiduciary duties in the conduct of her insurance business in violation of Minn. R. pts. 2795.1000 and 2795.1300.

12. Respondent's conduct constitutes grounds for the Department to take disciplinary action under Minn. Stat. § 60K.43, subd. 1.

13. Disciplinary action is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS RESPECTFULLY RECOMMENDED that the Commissioner take disciplinary action against Respondent.

Dated: March 7th, 2006.

/s/ Steve M. Mihalchick
STEVE M. MIHALCHICK
Administrative Law Judge

Reported: Tape-recorded (1 tape).